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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/823,720 | 03/29/2001 | Henry Tien Lo | L37-053 | 5984 |

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ELMAN TECHNOLOGY LAW, P.C.
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EXAMINER

LAYNO, BENJAMIN

ART UNIT PAPER NUMBER

3712

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,720

Applicant(s)

LO, HENRY TIEN

Examiner

Benjamin H. Layno

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wirth in view of Lo 042'.

The patent to Wirth discloses a method of playing a card game among a plurality of players and a banker (dealer) using one standard playing card deck To Play Wirth's game a standard deck of playing cards is shuffled. Each player places wagers 14, 15. Each player and the banker are each dealt a hand of six cards, col. 2, lines 50-58. Each player and the banker selecting and keeping their own best 5-card hand from their 6-card hand. Each player places a wager column 3, lines 4-7. The players compare their hand to the banker's hand to determine whether the players' wagers win or lose, see column 3 and 4. Hands are ranked in descending order, see table in column 3, lines 41-46. The banker determines whether the player wins, losses or ties, and settles each player's wager.

The patent to Lo 042' teaches that it is known in the casino poker game art to provide side-bet wagers on different individual poker hands and point values of 9 points to 0 points, column 4, lines 30-62, and column 5, line 65 to column 6, line 63. In view of such teaching, it would have been obvious to provide additional side bets representing

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different individual poker hands (e.g. one pair, two pair, 3-of-a-kind, etc.) to Wirth's game. This modification would have made Lo 042' game more exciting to play.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirth in view of Lo 042' as applied to claim 1 above, and further in view of Perkins.

Perkins teaches that it is known to provide a community card 18, 20 to poker games. In view of such teaching, it would have been obvious to incorporate a community card to Wirth's game. This modification would have made Wirth's game more exciting to play.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5, 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 5 recites the limitation "the community card or cards" in line 3. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 17 recites the limitation "the predetermined player losing **copy hand**" in lines 4 and lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

8. Claims 13-17 are each divided into several sentences. This is not permitted. Claims must be in one sentence format only. Correction is required.

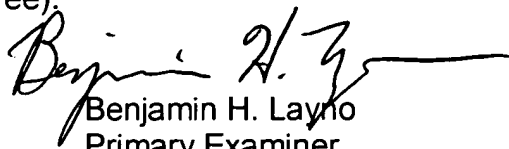
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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Schaefer discloses a card game having bet wagering area 24-32 representing different individual poker hand ranks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl